

1 Amend 2 Cal. Code Regs. Section 18360 to read:

2 **§ 18360. Complaints.**

3 (a) Pursuant to ~~Government Code~~ Section 83115, the Commission may
4 investigate on its own initiative, or ~~any~~ a person may submit a formal complaint to the
5 Commission concerning, ~~possible an alleged violations~~ violation of the ~~Political Reform~~
6 ~~Act (Title 9 (commencing with Section 81000) of the Government Code; referred to in~~
7 ~~this regulation as "the Act")~~ relating to any state agency, state official, state election, state
8 lobbyist or state legislative or administrative action.

9 (b) ~~Formal complaints may~~ A formal complaint shall be filed on a form made
10 available by the Commission and ~~in any event shall~~ comply with all of the following
11 requirements:

12 (1) ~~be~~ Be in writing;

13 (2) ~~be~~ Be ~~verified~~ signed under penalty of perjury by the complainant;

14 (3) State the basis for the complainant's personal knowledge that the facts
15 constituting each alleged violation are true and correct.

16 (3) (4) ~~identify~~ Identify the person or persons who allegedly violated the Act and,
17 if known, the specific provision or provisions of the Act allegedly violated;

18 (4) (5) ~~describe~~ Describe with as much particularity as possible the facts
19 constituting the alleged violation;

20 (5) (6) ~~include~~ Include or describe with as much particularity as possible any
21 evidence or means of obtaining evidence in support of the complaint; ~~and~~.

22 (6) (7) ~~include~~ Include names and addresses of potential witnesses, if known.

1 (c) ~~Nothing in this~~ This regulation shall ~~does not prevent any~~ a person from
2 informally ~~anonymously~~ complaining by telephone to the Commission or requesting
3 anonymity when doing so ~~or presenting information regarding possible violations of the~~
4 ~~Act, but only a formal complaints~~ complaint filed substantially in conformity with
5 subsections (a) and (b) shall entitle subdivision (b) entitles the complainant to the
6 procedural rights set forth in ~~Government Code~~ Section 83115 and in this regulation. ~~The~~
7 ~~members of the Commission and, where appropriate, other agencies which have an~~
8 ~~interest, shall be provided with information about all informal complaints on a regular~~
9 ~~basis. The staff shall make every effort to cooperate with any other governmental agency~~
10 ~~which would be in a position to assist the staff on the complaint. The staff may, however,~~
11 ~~decline to disclose the identity of a confidential source.~~

12 (d) Upon receipt of a formal complaint that conforms with the provisions of
13 subsection (b), the staff shall send a copy to the members of the Commission and prepare
14 ~~an initial response.~~ Prior to each regularly scheduled Commission meeting, Commission
15 staff shall provide ~~the members~~ each member of the Commission a report with the
16 following information ~~about all formal complaints received since the last report:~~

17 (1) ~~With respect to formal complaints received since the last report:~~

18 (A) The name of the complainant unless the complainant is a confidential
19 informant.

20 (2) ~~(B)~~ The name of the person or persons complained against.

21 (3) ~~(C)~~ The date the complaint was filed.

22 (4) ~~(D)~~ The alleged violations of the Act.

1 (2) With respect to complaints the Commission staff recommends the
2 Commission pursue on its own initiative since the last report, the same information
3 specified in subparagraphs (B), (C), and (D) paragraph (1).

4 (3) Additional information a Commissioner requests to that Commissioner,
5 including a copy of a formal complaint, if providing the information does not
6 compromise the impartiality of the Commissioner on matters alleged in the
7 complaint.

8 (e) The Commission staff, where appropriate, shall also provide other agencies
9 that have an interest with information about complaints. The staff shall make every effort
10 to cooperate with any other governmental agency in a position to assist the staff on a
11 complaint. The staff may, however, decline to disclose the identity of a confidential
12 informant.

13 ~~(e)~~ (f) The Executive Director shall initial response respond to a formal complaint
14 as follows:

15 (1) Notify the complainant in writing within 14 days of receipt of the formal
16 complaint. The response shall be made in writing to the complainant within 14 days by
17 the Executive Director on behalf of the Commission and shall state that the Commission
18 will do one or more of the following:

19 ~~(1)~~ (A) ~~will investigate~~ Investigate the allegations of the complaint, in which case
20 the response shall inform the complainant that the Commission's commencement of
21 an investigation only indicates the complaint alleges a violation of the Act and
22 culpability, if any, has not been determined; ~~or.~~

23 ~~(2) will require additional time to evaluate the complaint to determine whether an~~

1 ~~investigation should ensue and provide an appropriate explanation for the delay; or~~

2 ~~(3) (B) will refer Refer~~ the complaint to another agency; ~~or.~~

3 ~~(4) (C) will take Take~~ no action on the complaint because, on the information
4 presented, the Commission has no does not appear to have jurisdiction, **but the**
5 **complainant may provide additional information** to investigate the complaint; ~~or.~~

6 ~~(5) (D) will take Take~~ no action on the complaint because the allegations of the
7 complaint, **absent the Commission receiving additional information,** do not warrant
8 the Commission's further action by the Commission for the ~~reasons~~ reason stated in the
9 response.

10 (E) Take additional time to evaluate the complaint to determine whether an
11 investigation should ensue and provide an appropriate explanation for the delay. This
12 information shall be provided within successive intervals of no more than 14 days per
13 interval until the Commission notifies the complainant it has acted on the complaint
14 under subparagraphs (A) through (D).

15 (2) Provide a person who is the subject of the formal complaint with a copy of the
16 complaint. ~~The Commission may decline to provide the complaint or any part of the~~
17 ~~complaint if the Chief of the Enforcement Division concludes that providing the~~
18 ~~information is likely to jeopardize an investigation.~~ **However, the Executive Director**
19 **may decline to provide a copy of the complaint or may redact information from the**
20 **complaint based upon the recommendation of both the General Counsel and the**
21 **Chief of Enforcement and provided withholding the information is otherwise**
22 **consistent with law. If the Executive Director makes this determination, he or she**
23 **shall provide the subject of the complaint with written notice of the existence of the**

1 complaint or a copy of the complaint with the redactions and the specific reason all
2 or part of the complaint is being withheld. If all or part of a complaint is withheld
3 from the subject of the complaint, that part withheld may not be disclosed to
4 another person.

5 (g) If the Commission investigates the allegations of a formal complaint, the
6 Executive Director shall notify the complainant in writing of all of the following:

7 (1) The time, date, and location of any public hearing or public meeting on the
8 complaint scheduled to be heard by an administrative law judge or the Commission.

9 (2) The date, time, and location of any public proceeding on the complaint
10 scheduled to be heard by a court.

11 (3) The Commission's or a court's final resolution of the complaint.

12 ~~(f) If the initial response is made pursuant to subparagraphs (e)(3), (4) or (5), it~~
13 ~~shall be sent to the members of the Commission before it is sent to the complainant. The~~
14 ~~members of the Commission shall be given reasonable time to suggest changes in the~~
15 ~~response and, if any member requests, the matter shall be considered in executive session~~
16 ~~at the next Commission meeting at which time the Commission may instruct the staff to~~
17 ~~take appropriate further action.~~

18 ~~(g) In the case of a formal complaint, if no final action was taken at the time of~~
19 ~~the initial response, the Executive Director shall take such steps as are appropriate under~~
20 ~~2 Cal. Adm. Code Sections 18361.1 through 18361.8 or shall prepare a final response~~
21 ~~stating that the Commission will take no further action and stating the reason for the~~
22 ~~decision. Such a final response shall be sent to the members of the Commission before it~~
23 ~~is sent to the complainant. The members of the Commission shall be given a reasonable~~

1 time to suggest changes in the response and, if any member requests, the matter shall be
2 considered in executive session at the next Commission meeting at which time the
3 Commission may instruct the staff to take appropriate further action.

4 (h) ~~If, in the exercise of his or her discretion, the Executive Director determines~~
5 ~~that prompt action is required on a formal complaint, he or she may approve the sending~~
6 ~~of an initial or final response without complying with the provisions of subsections (f) or~~
7 ~~(g). However, the Executive Director shall make reasonable efforts to consult with the~~
8 ~~members of the Commission consistent with the need for prompt action.~~

9 (i) If the person who filed the formal complaint disagrees with an initial or final
10 response, he or she may submit in writing, within 20 days of receipt of the response, a
11 request for reconsideration ~~which~~ **that** shall be directed to the Chairman of the
12 Commission. ~~Such request shall be considered by the Commission in executive session at~~
13 ~~its next regularly scheduled meeting. Written notice of the Commission's decision shall~~
14 ~~be sent to the complainant by the Chairman.~~

15 Note: Authority cited: Section 83112, Government Code.

16 Reference: Section 83115, Government Code.